

BEFORE THE

## Federal Communications Commission

WASHINGTON, D.C.

In the Matter of )

Reallocation of Television Channels )  
60-69, in the 746-806 MHz Band )

ET Docket No. 97-157

**COMMENTS OF  
NATIONAL MINORITY T.V., INC.**

National Minority T.V., Inc. ("NMTV"), by its attorneys, hereby submits its Comments concerning the Notice of Proposed Rulemaking in the above-referenced proceeding, FCC 97-245, released July 10, 1997, and published in the Federal Register on July 31, 1997. 62 Fed. Reg. 41,012 (July 31, 1997) ("NPRM").

NMTV is a nonprofit, non-stock, minority controlled company and is the licensee of television broadcast station KNMT(TV), Channel 24, Portland, Oregon, low power television ("LPTV") station W20BA, Channel 20, Massena, New York, and numerous television translator stations located throughout the country. Three of the four directors of NMTV are minorities -- two African Americans and one Hispanic American. NMTV is one of a small number of minority owned licensees in the country.

NMTV has become increasingly concerned about the Commission's commitment to promote minority ownership of broadcast facilities. The Commission is now proposing to reallocate the 746-806 MHz band, currently comprising television channels 60-69, for fixed and mobile services and for public safety use. NMTV owns a number of translators that occupy channels in the 60-69 range. While NMTV understands the importance of allocating spectrum

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for public safety services, the Commission must also ensure that the important diverse voices provided by LPTV/TV translator stations are not lost in the process and that minority ownership is not adversely affected.

LPTVs and television translators have long been the stepping stone by which minorities and small businesses have become involved in the broadcast industry. LPTV/TV translator stations are often the only broadcast outlet available to smaller communities. Indeed, when the Commission implemented LPTV and television translator regulations, it envisioned the services being used as a less costly alternative for entry into the broadcast industry and a means of ensuring that a diversity of voices would exist in a market. See *An Inquiry Into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System*, 82 F.C.C. 2d 47, 80 (1980) (statement of Chairman Ferris).

NMTV's translators rebroadcast programming aired on the Trinity Broadcasting Network, providing viewers the ability to receive many of the most watched religious programs in the United States that would otherwise be unavailable. NMTV has used this stepping stone approach to own and operate the full power television station KNMT(TV) in Portland, Oregon.

Under the Commission's proposed rules, NMTV would be forced to cease or alter its operations at great cost during the DTV transition period, once its stations caused interference to new DTV service or to other primary services operating in the 746-806 MHz band. The Commission should attempt to accommodate both LPTV and translator stations, DTV, and the new public safety and wireless services in a manner that allows all to successfully coexist. Such steps should include allowing LPTV/TV translator stations which are allocated to Channels 60-69 the ability to continue operations during the entire transition period, so as to allow them full opportunity to find a more suitable channel or transmitter site.

Further, if LPTV/TV translators do cause interference to operations of other services in the 746-806 MHz spectrum, the Commission should give LPTV/TV translator stations two options to remedy the situation. First, the LPTV/TV translator station should have the opportunity to file a non-window application to change its operating parameters to cure or prevent the interference. The Commission has already established such a procedure for LPTV stations that are displaced as a result of land mobile services. Terrain shielding and other relevant engineering analyses should be considered in locating replacement channels. In the alternative, the Commission should require the new licensees to negotiate with LPTV/TV translator stations to reach an agreement on the level of interference that would be tolerated by both parties in their operations. Such actions would allow all parties the chance to continue serving the public while fulfilling the Commission's stated goal of marketplace diversity. If the two parties cannot agree on a level of tolerable interference, then both parties could submit their separate interference proposals to the Commission to let it render a decision.

The Commission has proposed that 24 megahertz of the proposed spectrum be allocated to public safety and the remaining 36 megahertz of spectrum be allocated to fixed and mobile services. The 36 megahertz would be awarded through a competitive bidding process. NPRM at ¶ 15. While NMTV understands the importance of allocating spectrum for public safety use, NMTV fails to understand why the Commission should continue to place LPTV/TV translator stations in secondary status in comparison to the private fixed and mobile services, such that the LPTV/TV stations would be forced to relocate if interference were caused. There is no indication that any comparable public service requirements placed on LPTV/TV translator operations would be applied to the private mobile services. Because of the unique broadcast niche LPTV/TV translator stations currently occupy, and because of the growing cost associated with the relocation and construction of broadcast transmitter sites, relegating LPTV/TV

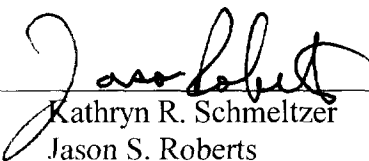
translator stations to secondary status behind these new mobile services all but assures the end of broadcast opportunities for a number of small and minority owned licensees. Therefore, if the Commission wants to continue providing this important broadcast service, it should not force LPTV/TV translator stations that interfere with fixed and mobile services to be displaced.

If displacement does occur, however, the LPTV/TV translator stations that are forced to modify operations should be compensated for the costs of such action, and the money could come from the proceeds of the competitive auction. This type of payment would more easily permit LPTV/TV translator licenses to continue their valuable service on new channels and would help alleviate economic difficulties that result from the secondary status of LPTV/TV translator stations.

In sum, NMTV requests that the Commission take all steps possible to alleviate the impact of its reallocation proposal on LPTV/TV translator stations, including permitting affected stations to relocate through minor change applications, and compensation of affected stations out of auction proceeds.

Respectfully submitted,

**NATIONAL MINORITY T.V., INC.**

By \_\_\_\_\_  
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